

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ROBBYE RAY ANDERSON,

CASE NO. 08-CV-1031 W (AJB)

Petitioner,

v.

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION
(DOC. NO. 19), AND (2)
DENYING PETITION (DOC.
NO. 1)**

M. MARTEL, Warden, et al.,

Respondents.

On June 9, 2008, Petitioner Robbye Ray Anderson, proceeding pro se, filed this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges his San Diego Superior Court convictions for furnishing, giving away or offering to sell cocaine base, possession of cocaine base for sale, and possession of drug paraphernalia.

On December 2, 2008, Respondents filed an Answer to the Petition, accompanied by a Memorandum of Points and Authorities in support thereof. On March 19, 2009, the Honorable Magistrate Anthony J. Battaglia issued a Report and Recommendation ("Report"), recommending that the Court deny the Petition with prejudice. The Report also ordered that any objections were to be filed by April 20, 2009, and any reply filed by May 4, 2009. To date, no objection has been filed, nor has there been a request for additional time in which to file an objection.

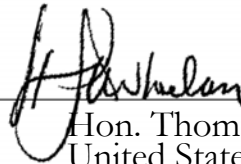
A district court's duties concerning a magistrate judge's report and recommendation and a respondent's objections thereto are set forth in Rule 72(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are filed, the district court

1 is not required to review the magistrate judge's report and recommendation. See United
 2 States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)(holding that 28 U.S.C.
 3 636(b)(1)(c) "makes it clear that the district judge must review the magistrate judge's
 4 findings and recommendations de novo *if objection is made*, but not otherwise")(emphasis in
 5 original); Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D. Arizona 2003) (concluding
 6 that where no objections were filed, the District Court had no obligation to review the
 7 magistrate judge's Report). This rule of law is well established within the Ninth Circuit and
 8 this district. See Wang v. Masaitis, 416 F.3d 992, 1000 n. 13 (9th Cir. 2005)("Of course,
 9 de novo review of a R & R is **only** required when an objection is made to the R &
 10 R.")(emphasis added)(citing Reyna-Tapia, 328 F.3d 1121); Nelson v. Giurbino, 395 F.
 11 Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopted Report without review because
 12 neither party filed objections to the Report despite the opportunity to do so, "accordingly,
 13 the Court will adopt the Report and Recommendation in its entirety."); see also Nichols
 14 v. Logan, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

15 The Court, therefore, accepts Judge Battaglia's recommendation, and **ADOPTS** the
 16 Report (Doc. No. 19) in its entirety. For the reasons stated in the Report, which is
 17 incorporated herein by reference, the Court **DENIES** Petitioner request for habeas relief
 18 and **DISMISSES** the Petition (Doc. No. 1) **WITH PREJUDICE**.

19 **IT IS SO ORDERED.**

20
 21 DATED: August 31, 2009

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 23 
 24 Hon. Thomas J. Whelan
 25 United States District Judge
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